



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IDA MAE WHITLEY,

Plaintiff,

v.

TAYLOR BEAN & WHITAKER MORTGAGE  
CORP.; ADVANCE LENDING GROUP, CORP.;  
GIL & GIL GROUP CORP., REAL ESTATE -  
LINCOLN; FAVIAN CARDENAS; BLUE  
HORIZON REAL ESTATE CORP.; and  
DOES 1-10,

Defendants.

FILED: May 30, 2008

08 CV 3114 RCC

08cv3114  
Judge Castillo

Magistrate Judge Valdez

**FILED**

AUG 08 2008 TC

Aug 8, 2008

MICHAEL W. DOBINS  
CLERK, U.S. DISTRICT COURT

**DEFENDANTS CARDENAS and BLUE HORIZON REAL ESTATE CORPORATION'S**

**COMBINED MOTIONS TO DISMISS AND STRIKE THE COMPLAINT**

**PURSUANT TO FED. R. CIV. P. 9(b), 12(b)(6) AND 12(f)**

Defendants, Favian Cardenas and Blue Horizon Real Estate Corporation, for their initial response to the Complaint, through their attorney SIDNEY ABELSKI, ABELSKI & ASSOCIATES, LTD., and pursuant to Federal Rules of Civil Practice Rules 9(b), 12(b)(6) and 12(f) move, in separate motions as set forth herein below, to dismiss, and to strike, various portions of the Complaint.

**MOTION I**

**(R. 12(b)(6))**

1. Defendants Favian Cardenas and Blue Horizon Real Estate Corporation (collectively "Movants") are joined herein, under Count I, for alleged violations of the CREDIT REPAIR ORGANIZATIONS ACT, 15 USC 1679, et.seq., ("Act").

2. The Act provides liability for individuals who engage in enumerated practices thereunder who, as a result, may be referred to as a "credit repair organization".

3. Neither of your Movants is, or under the provisions of the Act may be termed, a "credit repair organization".

**MOTION II**

**(Count I - Rule 9(b))**

1. Count I fails to plead fraud with the particularity required by Rule 9(b), and therefore, fails to state a cause of action. Count I alleges fraudulent conduct in violation of the Credit Repair Organizations Act, 15 USC. 1679, et seq., ("Act").

2. The sufficiency of Count I is determined by, and subject to, Rule 9(b) of the Federal Rules of Civil Procedure.

3. Allegations 31, 38, 41, 42, 45, 47, 54, 55 and 56, fail to comply with the requirements of Rule 9(b), lacking both fact and particularity in those allegations.

4. Additionally, allegations 10, 14 and 57, relying in some manner on the foregoing insufficient allegations, are also deficient.

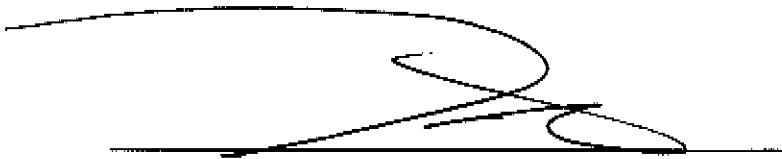
**WHEREFORE**, Defendants Cardenas and Blue Horizon Real Estate Corporation, respectfully move for entry of an order dismissing Count I, or in the alternative, striking each of the paragraphs referenced hereinabove.

**MOTION III**

**(Motion to Strike - Rule 12(f))**

**VARIOUS AVERMENTS IN THE COMPLAINT ARE ARGUMENTATIVE,  
PREJUDICIAL, OR OTHERWISE IN VIOLATION OF THE SPIRIT OF THE PROHIBITIONS  
OF RULE 12(f).**

1. Portions of various allegations in the Complaint, consisting of paragraphs 5, 11, 12, 21, 22, 33, 39, 54 and 59, are inconsistent with the letter and spirit of Rule 12, all as more fully set forth in the memorandum in support of this motion.



Sidney Abelski, Attorney for Favian Cardenas and  
Blue Horizon Real Estate Corporation

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